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January 8, 2020

The Honorable Paul A. Engelmayer
United States District Judge
Thurgood Marshall United States Courthouse
Southern District of New York
40 Foley Square, Room 2201
New York, New York 10007

Re: Benihana of Tokyo, LLC, et al. v. Benihana, Inc., 14 Civ. 0224 (PAE)

Dear Judge Engelmayer:

We write regarding the Opinion & Order issued today. *See* Dkt. No. 180. In the Opinion, the Court notes that “BI is also entitled to compensation for its reasonably incurred out-of-pocket costs associated with the appeal,” but that “BI has not itemized or even aggregated such costs in its application to this Court.” *Id.* at 16. While BI did seek an award of costs in the appeal, it did not include a request for them in its application to this Court because BOT agreed to pay appellate costs just as BI was submitting its fee application here. BOT then paid the appellate costs (with the trial court fee award) and documented as much in its opposition brief. *See* Dkt. No. 176 at 25.

We apologize for any confusion BI may have caused the Court. As always, thank you for your time and attention to this matter.

Respectfully submitted,


/s/ Joshua A. Munn

Joshua A. Munn

cc: Counsel of Record (by CM/ECF)

The Court thanks counsel for bringing BOT's payment of costs to its attention. As a result, no further briefing is necessary in this case. The Court respectfully directs the Clerk of Court to close the case.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

January 9, 2020